

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

February 3, 1998 LB 902

SPEAKER KRISTENSEN: Senator Bruning, you're recognized for a motion to advance.

SENATOR BRUNING: Mr. Speaker, I move LB 902 to E & R for engrossing.

SPEAKER KRISTENSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. Speaker and members of the Legislature, I want to speak on this bill. It relates to removal of statutes that have been found unconstitutional. Yesterday we had a proposed constitutional amendment before us, before the Executive Board, and it would have put before the people a provision that would allow the Legislature to hire counsel, or something to that effect. I voted against that, made the motion to kill it, because, despite what this Attorney General says about our needing to get permission from him to hire counsel, I don't agree with that. And I would be opposed to our doing anything that would concede that his erroneous position is incorrect. If you read the constitutional provisions relative to the Attorney General and his or her duties, you will see phraseology along the lines of "according to law", or "in accord with the law", which always means that the Legislature can enact provisions that are binding on the Attorney General. Other Attorneys General Opinions have made that point, other court decisions have made that point. The Attorney General is not a freestanding, freewheeling individual. I know that he belongs to a particular political party and there are people who support him and what he does. But this issue is so significant that I want to make more comments on it than I can in just five minutes. The Legislature has to start reading provisions of the constitution that relate to the powers of the executive branch and the powers of the legislative branch. The judicial branch is not quite the same problem that we have with the Attorney General. Whenever a provision of the constitution contains the words "according to law", "pursuant to law", or "by law", it means the Legislature is empowered thereby, not prohibited thereby, from legislating in that area. The Legislature too many times allows itself to be bullied, to be intimidated and put on the defensive. The Legislature is a coequal branch of government, that's what we always say, I have even said it. But